



HIGH COURT OF ANDHRA PRADESH
MONDAY ,THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE G. SHYAM PRASAD
WRIT PETITION NO: 14465 OF 2020

Between:

1. M.Bhaskara Rao, S/o M.Penchalaiah
Age 59 year
working as Assistant Commissioner P and E Department, Visakhapatnam
r/o Flat No. 402, KSR Green Vally, B.Block, Madhavadara,
Visakhapatnam,

...PETITIONER(S)

AND:

1. The State of Andhra Pradesh rep by its Special Chief Secretary, Revenue (Excise) 4th Block, Ground Floor, Room No. 134, A.P.Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Commissioner of Proh and Excise, State of Andhra Pradesh, Rs.No. 88-2B, Sai Vihar Apartments, Poultry Farm Road, Prasadampadu, (V), Vijayawada, Krishna District.
3. The Tribunal for Disciplinary Proceedings (TDP), for the State of Andhra Pradesh, rep by its Secretary, M.J.Road, Nampally, Hyderabad

...RESPONDENTS

**Counsel for the Petitioner(s): RAMALINGESWARA RAO KOCHARLA
KOTA**

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following: ORDER



*** HON'BLE SRI JUSTICE G. SHYAM PRASAD**

+ W P No.14465 OF 2020

% 07-09-2020

M. Bhaskara Rao S/o M Penchalaiah
Aged 59 years, working as Assistant Commissioner
Prohibition & Excise Department,
Visakhapatnam, r/o Flat No.402,
KSR Green Vally, B.Block
Madhavadara, Visakhapatnam.

... petitioner.

vs.

- \$ 1. The State of Andhra Pradesh
Rep by its Special Chief Secretary
Revenue (Excise) 4th Block
Ground Floor, Room No.134
A.P.Secretariat, Velagapudi,
Amaravathi, Guntur district.
2. The Commissioner of Proh & Excise
State of Andhra Pradesh
RS No.88-2B, Sai Vihar Apartments,
Poultry Farm Road, Prasadampadu
(V) Vijayawada, Krishna District.
3. The Tribunal for Disciplinary proceedings
(TDP), for the State of Andhra Pradesh
Rep by its Secretary, M.J.Road, Nampally
Hyderabad.

... Respondents.

!Counsel for the petitioner : Sri Ramalingeswara Rao
Kocherlakota

^Counsel for the Respondents : G.P. for Services

<Gist :

>Head Note :

? Cases referred : 1. 2005(5) Supreme 611

**HON'BLE SRI JUSTICE G. SHYAM PRASAD****W.P. No.14465 OF 2020****ORDER:**

This is a writ of Mandamus filed by the petitioner seeking for a direction to the respondents to conclude the enquiry and the charge Memo dated 20.09.2019 within three months in terms of G.O.Ms.No.679 General Administration (SER.C) Department dated 01.11.2008.

2. Heard arguments of learned counsel for the petitioner and learned Government Pleader appearing for the respondents.

3. The petitioner was appointed as Excise Inspector on 15.10.1995. He was promoted as Assistant Prohibition & Excise Superintendent on 17.12.2005. Again he was promoted as Prohibition & Excise Superintendent on 24.04.2013, and further promoted as Assistant Commissioner Prohibition & Excise on 10.10.2018. The petitioner is presently under zone of consideration for promotion to the post of Deputy Commissioner, Prohibition & Excise. In the meanwhile the Tribunal for Disciplinary Proceedings, 3rd respondent, has served a Charge Memo in Tribunal Enquiry Case (T.E.C.) No.287 of 2013, for an incident relating to "Liquor Syndicate" in the year 2010-2012. The charge memo has been served on the petitioner.

4. The learned counsel for the petitioner placed reliance on the judgment of Hon'ble Apex Court in the case of **P.V.MAHADEVAN Vs. M.D. TAMILNADU HOUSING BOARD**¹,

¹ 2005 (5) Supreme 611



placed reliance on para-11 of the judgment, which reads as under:

“Under the circumstances allowing the respondent to proceed further with the departmental proceedings at the distance of time will be very prejudicial to the appellant. Keeping a higher Government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a Government employee should, therefore, be avoided not only in the interests of the government employee but in public interest and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.

Therefore the charge memo issued against the appellant is quashed. The appellant will be entitled to all the retiral benefits in accordance with law.”

5. Learned counsel for the petitioner also placed reliance on the recent judgments of this Court in W.P. No.20872 2018, W.P.No.12614 of 2019 , W.P.No.1243 of 2020 and W.P.No.1275 of 2020, which are also disposed of, in the similar lines, as the ratio laid down by the Hon’ble Apex Court.

6. Learned Government Pleader submits that the judgment cited by the learned counsel for the petitioner is not applicable to



the facts of the present case, as in the instant case, since the proceedings pending before the 3rd respondent-Tribunal for Disciplinary Proceedings. The above decision is applicable only to the enquiries initiated by the Government where the proceedings are pending before the Governmental departments.

7. In **P.V.Mahadevan**'s case, the Hon'ble Apex Court held that in case of disciplinary proceedings pending before M.D.Tamilnadu Housing Board, the petitioner filed a writ petition to call for the records to quash the charge memo issued by the respondent M.D.Tamilnadu Housing Board. The distinction tried to be made between the Inquiries Department and the Tribunal for Disciplinary Proceedings and the inquiry conducted by the Government department is not supported by any authority submitted by learned Government Pleader.

8. As far as the facts of the present case are concerned, the petitioner was issued with a charge memo dated 20.09.2019 relating to the incident that occurred in the year 2010. Because of pendency of charge memo, the petitioner was denied further promotion for about 9 years.

9. Learned counsel for the petitioner placed reliance on the Government Circular Memo No.35676/SER.C/98, GA (Ser.C) Department dated 1.7.1998 and G.O.Ms.No.679 General Administration (Services-C) Department, dated 01.11.2008, and sought for fixing the time limit for early completion of departmental enquiries by Commissioner of Inquiries. Para 5 of the memo reads as under:-



“it has been decided that in simple cases, the enquiry initiated shall be completed within three months 3 months”.

At para-6 it is stated that *“Secretaries to Government shall review the progress of the enquiries ordered in all disciplinary cases and submit a note on the cases pending beyond the stipulated time indicated in para-5 of the above, to Chief Secretary to Government and also the Chief Minister. The object is to ensure timely action in all disciplinary cases and also adhere to the time limit prescribed”.*

10. Learned counsel for the petitioner also placed reliance on the judgment of a Division Bench of this Court in W.P.No.20872 of 2018, for the some proposition of law.

11. In fact, the allegations against the petitioner are in respect of Liquor Syndicate scam that occurred in the year 2010. The petitioner has been denied promotion due to the pendency of enquiry against him. The judgment of Hon'ble Apex Court relied on by the petitioner that he being Senior Officer, shall not be deprived of his legitimate expectation of his promotion. He should not be penalized for the delay occurred in the departmental enquiry on which he had no contract. The charge memo in this case has been served in the year 2012. It was held in **P V Mahadev**'s case, that if the enquiry could not be completed either 3 or 6 months as stated above, the Charge Memo is to be dropped.

12. The submission of the learned Government Pleader is that the Judgment in **Ajay Kumar** is not applicable to the facts of the present case. The present case is in respect of disciplinary proceedings issued by the Tribunal for disciplinary proceedings and they are not the proceedings before any Department of the



Government. The said objection do not sustain in the light of the ratio laid down in the judgment in **Ajay Kumar's case** that a direction to comply the disciplinary proceedings at an early date to avoid inconvenience to the officers, who are facing the charges for several years. The analogy of the Judgment of **Ajay Kumar** can be made applicable to the proceedings pending before the Tribunal for disciplinary proceedings also.

13. In G.O.Ms.No.679 instructions were given to all the Departments of Secretariat, Heads of Departments and District Collectors to follow in respect of taking timely action in all disciplinary cases and also adhere to the time described therein. Paragraph No.3 of the G.O.Ms.No.679 dt. 01.11.2008 are extracted hereunder, which reads as:

“Government direct that the disciplinary cases initiated against the Government employees shall be completed as expeditiously as possible and the existing instructions read above shall be adhered to. The Departments of Secretariat shall review the status position of the pending disciplinary cases against all the employees with which they are concerned and submit a note to the Chief Secretary to Government as per the instructions in force. It is also the responsibility of the inquiring authorities to complete the inquiry as per the allowed time. The competent Authority, after receipt of the inquiry report shall conclude the disciplinary proceedings within 6 months of its initiation and in case of abnormal delay in conducting the disciplinary proceedings, action shall be initiated against concerned inquiring authority.

14. In view of the Judgments in P.V.Madhavan's case, Ajay Kumar's case and G.O.Ms.No.679, this is a fit case, where a direction can be given to the 3rd respondent to conclude the enquiry and proceedings under Charge Memo dt. 20.09.2019



within three months from the date of receipt of a copy of this order, failing which the Charge Memo shall stand quashed.

15. With these observations, the Writ Petition is disposed of. No order as to costs.

Miscellaneous petitions, if any, pending shall also stand closed.

G. SHYAM PRASAD, J

Date: 07.09.2020

Note : L R copy to be marked

(b/o)

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HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.14465 OF 2020

Date: 07.09.2020

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